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July 20, 2017

U.S. Magistrate Judge Daniel J. Stewart
James T. Foley U.S. Courthouse
445 Broadway - 4th Floor
Albany, New York 12207
By: ECF

Re: Cinthia Thevenin, et al. v. The City of Troy, et al.
Docket No: 16-CV-01115(NAM)(DJS)

Dear Judge Stewart:

The firm of Harfenist Kraut and Perlstein, LLP along with Hach & Rose, LLP, represents the Plaintiff in this matter.

During a July 13, 2017 telephone conference, the Court advised that the Albany Times Union had requested access to certain police personnel records which had been the subject of a July 7, 2017 Order. Following the conference, the Court posted the Times Union's letter request to the docket (Docket Entry #20) and issued a text Order which memorialized the directive from the conference that the parties submit letter briefs on the issue by July 20, 2017. (Docket Entry #21).

Although Civil Rights Law §50-a is a state created privilege, the privacy protections for law enforcement personnel records have been recognized under Federal Common Law and as such Courts reviewing the records engage in a careful balancing test. See *generally Moore v. City of New York*, 2012 WL 2190551 (S.D.N.Y. June 15, 2012) ("Where plaintiffs asserting civil rights claims seek information subject to the protections of Section 50-a, federal courts acknowledge that defendants "possess legitimate privacy interests which militate against indiscriminate disclosure of inherently personal information" but nonetheless reason that a plaintiff bringing a civil rights action "possesses an equally compelling entitlement to discover relevant information necessary to ensure that through the adversarial process the truth emerges, and justice is done").

Plaintiff appreciates that the Court has Ordered that portions of these records be disclosed to Plaintiff in discovery with procedural safeguards, but takes no position as to the Times Union's request for access to such records.

Respectfully Submitted
HARFENIST KRAUT & PERLSTEIN, LLP
By: Neil Torczyner
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CC: All counsel (via ECF only)

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